

REMARKS

Claims 1-25 are pending in the application. Claim 4 has been cancelled by this amendment. Therefore, claims 1-3 and 5-25 are at issue.

Claims 1 and 22 have been amended to recite that the hydroxy-terminated oligoester is prepared using up to 5 mole % of the oligoester of one or more saturated triols or polyols, thereby providing a partially branched oligoester. Support for this amendment can be found in originally-filed, and now cancelled claim 4, and at page 9, lines 27-30, and in Examples 2 and 3, at pages 16 and 17 of the specification. Claim 5 has been amended to recite glycerol as a triol. Support for the amendment to claim 5 can be found at page 10, line 1. Claim 23 has been amended to improve the form of the claim.

Claims 22-25 stand rejected under 35 U.S.C. §112, second paragraph as being indefinite. In view of the amendments to the claims, it is submitted that this rejection has been overcome and should be withdrawn.

Claim 22 has been amended to clarify the phrase "at less than 0.3%". Claim 22 now recites the % free isocyanate groups are measured as NCO equivalents remaining after the polymerization based on the amount of isocyanate *groups* added in step (c), as determined in standard testing routinely performed by persons skilled in the art. See Example 3 of the specification, particularly page 17, lines 22-24. It is submitted that claims 22-25 fully comply with 35 U.S.C. §112, second paragraph, and that the rejection should be withdrawn.

Claims 1-21 stand rejected under 35 U.S.C. §103 as being unpatentable over McBain et al. U.S. Patent No. 5,777,053 ('053) in view of Bristow et al. U.S. Patent No. 4,213,837 ('837). Applicants respectfully traverse this rejection.

The '053 patent is discussed in Amendment "A", which is incorporated into this amendment by reference. Amendment "A" also contained amendments and arguments which differentiated the pending claims over the '053 patent. Applicants' present claims now recite a *partially branched* aliphatic hydroxy-terminated oligoester as a component of the

urethane acrylate gel coat resin. This amendment further differentiates the present claims over the coating composition of the '053 patent.

In particular, the '053 patent is limited to a linear aliphatic polyester intermediates "made from aliphatic dicarboxylic acids or aliphatic anhydrides and glycols" ('053 patent specification, column 2, lines 37-39). Specific glycols and diols are disclosed at column 2, lines 49-55, of the '053 patent. The '053 patent fails to teach or suggest using a triol or polyol to form a partially-branched oligoester, either in the specification, including the examples, or the claims.

After reading the '053 patent, a person skilled in the art would have had no incentive to alter the explicit teachings of the reference and provide a partially-branched oligoester as recited in the present claims.

The '837 patent does not overcome the deficiencies of the primary '053 patent. The examiner relies upon the '837 patent to support a contention of obviousness because the '837 reference discloses three methods of making polyester urethane acrylates. The examiner states that a preferred method of the '837 patent "allows for a better control of the exothermic reaction, and minimizes the formation of by-products".

The differences between the aliphatic polymer of the present claims and the aromatic polymer of the '837 patent are discussed in Amendment "A", incorporated herein by reference. In addition, the '837 patent, like the '053 patent, merely discloses *linear* hydroxy-terminated polyester oligomers, designated as BAHPO. The BAHPO of the '837 patent is disclosed in the structure at column 3, lines 21-37, which clearly depicts a compound having *two* hydroxy groups, i.e., a diol as opposed to a triol or polyol. The '837 patent therefore fails to teach or suggest a BAHPO that would yield a partially-branched oligoester, as presently claimed.

In summary, the present claims recite a urethane acrylate gel coat resin having a partially branched hydroxy-terminated aliphatic oligoester as a component. Partial branching is achieved by preparing the oligoester using up to 5 mole % of one or more saturated triol or polyol. Neither the '053 patent nor the '837 patent teaches or suggests a


partially branched polyester component because each reference is completely silent with respect to triols and polyols. Because the combination of references fails to teach each claimed feature, and because a person skilled in the art would have had no incentive to modify the combined teachings of the references from a linear polyester to a partially branched polyester, the rejection of pending claims 1-3 and 5-25 over a combination of the '053 and '837 patents under 35 U.S.C. §103 cannot be sustained and should be withdrawn.

It is submitted that all claims are in a form and scope for allowance. An early and favorable action on the merits is respectfully requested.

Should the examiner wish to discuss the foregoing, or any matter of form in an effort to advance this application toward allowance, the examiner is urged to telephone the undersigned at the indicated number.

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Respectfully submitted,

By 

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